

FILED
U.S. DISTRICT COURT
NORTHERN DIST. OF TX
FT. WORTH, TEXAS

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CLERK OF COURT

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

**JOSE MERCED, PRESIDENT,
TEMPLO YORUBA OMO
ORISHA TEXAS, INC.,**

Plaintiff,

vs.

THE CITY OF EULESS,

Defendant.

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Civil Action No. 4-06CV-891-A

**DEFENDANT, THE CITY OF EULESS', PROPOSED FINDINGS OF
FACT AND CONCLUSIONS OF LAW**

COMES NOW Defendant, THE CITY OF EULESS, and files its Proposed Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. Enforcement of the City ordinances in question against the Plaintiff does not burden the free exercise of his religion. (Testimony of City Manager, Gary McKamie; Testimony of expert, Donald Feare; Testimony of Director of Development Services, Mike Collins; Testimony of Omar Osuna; Testimony of Jonathan Merced; Testimony of Margaret Donnelly; Exhibit 7 – Expert Report of Dr. Michael Mason.)
2. Enforcement of the City ordinances in question against the Plaintiff is done in a manner that is rationally related to a legitimate public purpose. (Testimony of City Manager, Gary McKamie; Testimony of Director of Development Services, Mike Collins; Testimony of expert, Donald Feare; Exhibit 1 – Euless City Code, Article I, §§10-61 through 10-9, Article III, §§10.61 through 10.73 .)

3. The City does not exempt from enforcement of the ordinances in question violations for secular purposes that it does not exempt for the Plaintiff. (Testimony of City Manager, Gary McKamie; Testimony of Director of Development Services, Mike Collins; Testimony of expert, Donald Feare; Defendant's Exhibit 1 -- Euless City Code, Article I, §§10-61 through 10-9, Article III, §§10.61 through 10.73, Exhibit 4 -- Complaint Reports and Offense Reports, Exhibit 6 -- City of Euless official responses to animal-related complaints, Exhibit 8 -- Euless City Code, Article 10, §14-204, Exhibit 9 -- Euless City Health and Sanitation Code, Chapter 42.)

4. The City does not enforce the ordinances against the Plaintiff that it does not enforce against violations for secular purposes. (Testimony of City Manager, Gary McKamie; Testimony of Director of Development Services, Mike Collins; Testimony of expert, Donald Feare; Exhibit 4 -- Complaint Reports and Offense Reports, Exhibit 6 -- City of Euless official responses to animal-related complaints.)

5. The City does not discriminate against Plaintiff, except in furtherance of a compelling governmental interest in protecting the public health and welfare. (Testimony of City Manager, Gary McKamie; Testimony of Director of Development Services, Mike Collins; Testimony of expert, Donald Feare; Defendant's Exhibit 1 -- Euless City Code, Article I, §§10-61 through 10-9, Article III, §§10.61 through 10.73, Exhibit 4 -- Complaint Reports and Offense Reports, Exhibit 6 -- City of Euless official responses to animal-related complaints, Exhibit 8 -- Euless City Code, Article 10, §14-204, Exhibit 9 -- Euless City Health and Sanitation Code, Chapter 42.)

6. The City does not discriminate against Plaintiff, except by using the least restrictive means to further the compelling governmental interest of protecting the public health and welfare. (Testimony of City Manager, Gary McKamie; Testimony of Director of Development Services, Mike Collins; Testimony of expert, Donald Feare; Defendant's Exhibit 1 -- Euless City

Code, Article I, §§10-61 through 10-9, Article III, §§10.61 through 10.73, Exhibit 4 – Complaint Reports and Offense Reports, Exhibit 6 – City of Euless official responses to animal-related complaints, Exhibit 8 – Euless City Code, Article 10, §14-204, Exhibit 9 – Euless City Health and Sanitation Code, Chapter 42.)

CONCLUSIONS OF LAW

7. Enforcement of the ordinances in question against the Plaintiff does not burden the free exercise of his religion.
8. Any burden on religious exercise related to any City of Euless ordinance and enforcement policies and Texas statutes, is the incidental effect of neutral and generally applicable and otherwise valid laws, which do not impermissibly burden the Plaintiff's free exercise of his religion.
9. The ordinances in question are neutral.
10. The ordinances in question are generally applicable.
11. The City does not discriminate against Plaintiff's religious practices.
12. The ordinances in question serve a compelling governmental interest, which is the protection of public health and safety.
13. The ordinances in question are the least restrictive means to further the compelling governmental interest of protection of public health and safety.

Respectfully submitted,

WILLIAM M. MCKAMIE

By:



WILLIAM M. MCKAMIE
State Bar No. 13686800

**LAW OFFICES OF
WILLIAM M. MCKAMIE, P. C.**
13750 San Pedro, Suite 640
San Antonio, Texas 78232
(210) 546-2122
(210) 546-2130 (Facsimile)

COUNSEL FOR DEFENDANT

WILLIAM ANDREW MESSER
State Bar No. 13472230
MESSER, CAMPBELL & BRADY, L.L.P.
6351 Preston Road, Suite 350
Frisco, Texas 75034
(972) 424-7200
(972) 424-7244 (Facsimile)

LOCAL COUNSEL FOR DEFENDANT

CERTIFICATE OF SERVICE

I certify that on March 3, 2008, a complete and correct copy of the foregoing Defendant, The City of Euless', Proposed Findings of Fact and Conclusions of Law was served upon the following counsel of record in accordance with the Federal Rules of Civil Procedure:

VIA FACSIMILE TRANSMISSION
(214) 748-8693

John Wheat Gibson
John Wheat Gibson, P.C.
701 Commerce Street, Suite 800
Dallas, Texas 75202


WILLIAM M. MCKAMIE